



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION TO CONSIDER CORRESPONDENCE FILED IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE UNDER 37 CFR 1.8(b)

APPLICANT: Stefan Schroeder DOCKET NO: P00,1920
SERIAL NO.: 09/720,556 ART UNIT: 2154
FILED: December 21, 2000 EXAMINER: Patel, Ashokkumar
CONF. NO.: 3383

TITLE: METHOD FOR THE TRANSMISSION OF INFORMATION IN THE
SUBSCRIBER LINE AREA

RECEIVED

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

SEP 02 2004

Technology Center 2100

Dear Sir:

Applicants file this petition pursuant to 37 CFR 1.8(b) to consider
correspondence as being filed via U.S. First Class Mail with the U.S. Patent Office.

STATEMENT OF FACTS

The above-identified (and attached) Amendment B and Request for
Reconsideration was originally filed with the with the United States Patent and
Trademark Office by U.S. First Class Mail on May 26, 2004 as evidenced by the
Certificate of Mailing and the attached stamped postcard identifying this application.
In addition, a Request for a Corrected Filing Receipt was also filed on the same
day.

Unfortunately, the Amendment, Request, and postcard incorrectly identified
the serial number of the application with a serial number of 10/720,556 instead of
with its correct serial number of 09/720,556.

On July 21, 2004, I received a telephone call from a U.S. Patent Office
representative indicating that there was no outstanding office action for USSN
10/720,556 and that therefore my filing of these papers appeared improper.

During this telephone call, and after retrieving the application file, I informed
this representative that the serial number had been listed incorrectly and stated that
the correct serial number should be 09/720,556. I do not have a recollection of the

1 PETITION TO CONSIDER CORRESPONDENCE
FILED

UNDER 37 C.F.R §1.8(B)

verbatim response I received, but I was left with the impression that the serial number would be corrected by this representative and that the Amendment would be placed in the correct file.

On August 25, 2004, I received a telephone call from Examiner Ashok B. Patel who asked me if we planned to submit a response to his Office Action of February 26, 2004, since this case would become abandoned after tomorrow. I retrieved the application file and informed him that a response had been filed on May 26, 2004 and that I would submit these papers to the USPTO via a petition.

Applicants submit with this petition:


1. The originally deposited papers that constitute the correspondence **with the incorrect serial number (please correct the serial number on each attached copy to assure the correspondence is associated with the correct file);** and
2. A copy of the stamped postcard received from the USPTO.

The original deposit of the correspondence and the copies of the correspondence contained herein are identical.

Applicants note that this petition was filed promptly after an awareness that the Office had no evidence of receipt of the missing papers.

The Commissioner is authorized to deduct any fee deemed necessary from deposit account no. 50-1519; however, Applicants believe that no fee should be due, as the telephone call with the USPTO representative should have corrected any problem with associating the attached papers with the proper case.

Respectfully submitted,

 (Reg. No. 45,877)
Mark Bergner
SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 Sears Tower
Chicago, Illinois 60606-6473
(312) 258-5779
Attorney for Applicants
Customer Number 26574



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on August 25, 2004.

Mark Berzner

3 PETITION TO CONSIDER CORRESPONDENCE

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UNDER 37 C.F.R §1.8(B)



ION. COMMISSIONER OF PATENTS
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

19 ✓

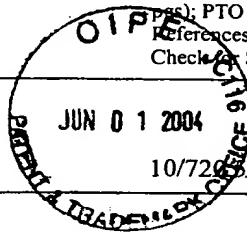
SIR:

PLEASE APPLY A RECEIPT STAMP HERETO AND MAIL TO
ACKNOWLEDGE RECEIPT OF THE ATTACHED:

Amendment Cover Sheet (2); Amendment B & Request for
Reconsideration (6 pgs); Request for Corrected Filing Receipt (2
pgs); PTO Filing Receipt (2 pgs); IDS (2 pgs); PTO-1449 (1 pg);
References (2); Abstract (1); International Search Report (1);
Check for \$180.00

Stefan Schroeder

APPLICANT	TYPE OF DOCUMENT(S)
May 26, 2004	P00,1920
MAILING DATE	REFERENCE NUMBER



MB
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SCHIFF HARDIN LLP

PATENT DEPARTMENT
6600 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, ILLINOIS 60606

In re application of: Stefan Schroeder

Serial No.: 10/720,556

Filed: December 21, 2000

For: METHOD FOR THE TRANSMISSION OF INFORMATION IN THE SUBSCRIBER LINE AREA



CONFIRMATION NO.: 3383

GROUP ART UNIT: 2154

EXAMINER: Patel, Ashokkumar B.

DOCKET NO.: P00,1920

AMENDMENT "B" and REQUEST FOR RECONSIDERATION

Mail Stop Non-Fee Amendment
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

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SIR:

Transmitted herewith is an amendment in the above-identified application.

☒ No additional fee is required.

The fee has been calculated as shown below.

CLAIMS AS AMENDED						
	(2) CLAIMS REMAINING AFTER AMENDMENT		(4) HIGHEST NO. PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEE
TOTAL CLAIMS		MINUS		X	() X 9.00 () X 18.00	
INDEP. CLAIMS		MINUS		X	() X 43.00 () X 86.00	
Application amended to contain any multiple dependent claims not previously paid for.				() YES () NO	() \$135.00 () \$270.00 ONE TIME	
				TOTAL ADDITIONAL FEE FOR THIS AMENDMENT		\$0.00

* If the entry in Column 2 is less than the entry in Column 4, write "0" in Column 5.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20 write "20" in this space.

- ☐ Applicants petition the Commissioner of Patents and Trademarks to extend this time for response to the Office Action dated _____ for _____ months so that the period for response is extended to _____. A check in the amount of \$_____ is attached to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to deposit account No. 501519. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$_____ is attached.
- ☐ A check for \$_____ accompanying IDS under 37 CFR 1.97(c) is attached
- ☐ A check for \$_____ and Petition for Consideration of IDS under 37 CFR 1.97(d) is attached.
- ☒ The Director is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519. A duplicate of this sheet is enclosed.
- When phoning re this application, please call (312) 258-5500.

SCHIFF HARDIN LLP (Customer Number: 26574)

Patent Department

BY Mark Bergner (45,877)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on May 26, 2004

Mark Bergner

NAME OF APPLICANT'S ATTORNEY

SIGNATURE

DATE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**AMENDMENT B AND
REQUEST FOR RECONSIDERATION**

APPLICANT: Stefan Schroeder DOCKET NO: P00,1920
SERIAL NO.: 10/720,556 ART UNIT: 2154

FILED: December 21, 2000 EXAMINER: Patel, Ashokkumar B.

CONF. NO.: 3383

TITLE: METHOD FOR THE TRANSMISSION OF INFORMATION IN THE
SUBSCRIBER LINE AREA

5 Mail Stop Non-Fee Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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Technology Center 2100

10 Dear Sir:

In response to the Office Action dated February 26, 2004 ("OA"),

Applicant responds as follows and asks for reconsideration.

Applicant also requests consideration of the Information Disclosure

Statement filed concurrently herewith.

15 **Amendments to the Claims** are reflected in the listing of claims which
begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

This listing of claims will replace all prior versions, and listings, of claims in the application.

LISTING OF CLAIMS

1. (currently amended) A method for transmitting information in a
5 subscriber line area with a subscriber line network, the method comprising the steps of:

transmitting information via said subscriber line network according to an
xDSL method; and

10 supplying control data to an interface provided between an application level and a physical transmission with which an xDSL link can be dynamically reconfigured by an evaluation of protocols.

2. (Previously presented) The method according to claim 1, further comprising the step of arranging said interface in a local exchange.

15 3. (Previously presented) The method according to claim 1, further comprising the step of taking said control data from signaling.

20 4. (Previously presented) The method according to claim 1, further comprising the step of taking said control data from RM cells of ABR traffic.

5. (Previously presented) The method according to claim 1, further comprising the step of taking said control data from the Internet protocol.

REMARKS

Claims 1-5 are pending in the application. These claims were rejected as follows:

Claims / Section	35 U.S.C. Sec.	References / Notes
1-3, 5	§102(e) Anticipation	<ul style="list-style-type: none">• Timm, et al. (U.S. Patent No. 6,055,268).
4	§103(a) Obviousness	<ul style="list-style-type: none">• Timm, et al. (U.S. Patent No. 6,055,268); and• Saito, Dynamic Resource Allocation in ATM Networks.

5 Applicant has amended claim 1 to correct minor typographical errors and provided discussion for distinguishing the claims from the art cited against it.

35 U.S.C. §102(e), CLAIMS 1-3, 5 ANTICIPATION BY TIMM

1. *Timm fails to teach the dynamic reconfiguration of an xDSL link, but rather describes a negotiation of a bit rate prior to the establishment of an xDSL*
10 *link.*

In the OA, in the carryover paragraph on pp. 2-3, the Examiner states, [Timm] teaches supplying control data to an interface between an application level and physical transmission with which an xDSL link can be
15 dynamically reconfigured (Fig. 7a and col. 22, lines 18-67, col. 23, lines 1-57). The reference also teaches the dynamic reconfiguration taking place by evaluation of protocols in xDSL method as the reference uses the point-to-point (PPP link control
20 protocol for exchanging line connection management messages (col. 7, lines 28-31).

Applicant respectfully disagrees with this characterization. Timm discloses a method as to how the transfer rate of data can be variably changed

in the participant termination region between a location switching site and participant. The magnitude of this change shifts up to 400 Kbit/s given the transfer from the participant to the net (upstream) and between 400 Kbit/s and 2.048 Mbit/sec given the transfer from the net to the participant (downstream)

5 (column 6, lines 54 through 67).

The change ensues via insertion of a new negotiation method (column 6, line 11) according to which the transfer rate can be changed according to the requirement of the line conditions, the end device (computational capabilities) of the net access, and application requirements. However, as these negotiation
10 methods are always fashioned, the core of Timm's disclosure is that these negotiation methods always ensue before the beginning of the data transmission, thus, for example, before or as part of the connection establishment (column 5, lines 66, 67), and not once the xDSL link has been established. Timm's claim 1
also gives a clear indication of this (see 1(f), "then [after rate negotiation has
15 ensued] commencing non-rate negotiation communication between said first and second modems at the accepted negotiation rate...". The transfer rate is selected once and the preferred direction selected once can then, however, no longer be changed during the existence of the connection. The disclosure is this to be considered as prior art from which the present invention originates.

20 In contrast to this, the present patent application has the goal to remedy precisely this problem that, even in this prior art, a flexible change, let alone a change of the preferred direction selected once, cannot be effected during an existing connection (see Abstract, Substitute Specification 3/5-7). This ensues

via evaluation of the protocols during an existing connection. Since an interface is provided between application layer and the physical transfer, a reconfiguration can ensue during the existing connection as a result of the evaluation. The term "reconfiguration" means that the predetermined preferred direction can be
5 completely changed. Since the "dynamic reconfiguration" according to claim 1 clearly occurs with respect to an (established/existing) xDSL link, and not just during protocol used to establish such a link, the inventive features cannot be learned from the disclosure content according to Timm.

For these reasons, the Applicant asserts that the claim language clearly
10 distinguishes over the prior art, and respectfully request that the Examiner withdraw the §102 rejection from the present application.

35 U.S.C. §103(a), CLAIM 4 OBVIOUSNESS IN VIEW OF TIMM AND SAITO

2. Applicant relies on the above arguments and asserts that Saito similarly fails to teach the dynamic reconfiguration of an xDSL link.

15 Applicant relies on the discussion above and notes that the Examiner cites Saito as disclosing the feature of the RM cells of ABR traffic providing the control data, a feature of the dependent claim.

Applicant respectfully requests that the Examiner withdraw the §103 rejection from the present application.

20

CONCLUSION

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered,

the rejections be withdrawn and that a timely Notice of Allowance be issued in
this case.

Respectfully submitted,

Mark Bergner (Reg. No. 45,877)

Mark Bergner
SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 Sears Tower
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Attorney for Applicants
Customer Number 26574

CERTIFICATE OF MAILING

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Alexandria, VA 22313-1450 on May 26, 2004.

Mark Bergner
Mark Bergner Attorney for Applicants



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR CORRECTED FILING RECEIPT

APPLICANT(S): Stefan Schroeder

CONFIRMATION NO.: 3383

SERIAL NO.: 10/720,556

Group Art Unit: 2154

DATE FILED: December 21, 2000

Examiner: Patel, Ashokkumar B.

Attorney Docket No.: P00,1920

**TITLE: "METHOD FOR THE TRANSMISSION OF INFORMATION IN THE
SUBSCRIBER LINE AREA"**

OFFICE OF INITIAL PATENT EXAMINATION'S
FILING RECEIPT CORRECTIONS
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

SEP 02 2004

Technology Center 2100

SIR:

1. Attached is a copy of the official filing receipt received from the PTO in the above application for which issuance of a corrected filing receipt is respectfully requested.
2. There is an error in that the following data is:

☒ incorrectly entered
and/or
☐ omitted

- ☐ Inventor's Name
- ☐ Applicant's address
- ☒ Title
- ☐ Filing Date
- ☐ Serial Number
- ☐ Foreign/PCT Application Reference
- ☒ Other

The Title should read:

**"METHOD FOR THE TRANSMISSION OF INFORMATION IN
THE SUBSCRIBER LINE AREA"**

Total Claims should be 5

3. (Complete the following applicable item A or B)

A. ☒ The correction is not due to any error by applicant and no fee is due.

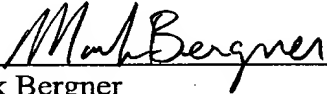
OR

B. ☐ The correction is due to applicant's error and the fee therefore under 37 CFR 1/19(h) of \$25.00 is paid as follows:

☐ enclosed is a check for \$25.00

☒ The Commissioner is hereby authorized to charge any additional fees which may be required to **Account No. 501519.**

Respectfully submitted,

 (Reg.) #45,877
Mark Bergner
Schiff Hardin LLP
Patent Department
6600 Sears Tower
Chicago, Illinois 60606
Telephone: 312-258-5785
Attorneys for Applicant

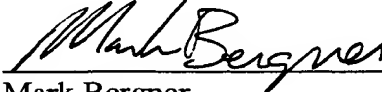
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on

May 26, 2004


Mark Bergner